

5820

2009-2010 Regular Sessions

I N   S E N A T E

June 8, 2009

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Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law and chapter 235 of the laws of 1952, re-entitled by chapter 369 of the laws of 1959 "An act to enable any city of the state having a population of one million or more to adopt, and amend local laws, imposing certain specified types of taxes on cigarettes, cigars and smoking tobacco which the legislature has or would have power and authority to impose, to provide for the review of such taxes, and to limit the application of such local laws", in relation to little cigars

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 1 of section 470 of the tax law, as amended by  
2     section 1 of part MM-1 of chapter 57 of the laws of 2008, is amended to  
3     read as follows:

4     1. "Cigarette." (a) Any roll for smoking made wholly or in part of  
5     tobacco or of any other substance wrapped in paper or in any other  
6     substance not containing tobacco, and (b) any roll for smoking made  
7     wholly or in part of tobacco wrapped in any substance containing tobacco  
8     that, because of its appearance, the type of tobacco used in the filler,  
9     or its packaging and labeling, is likely to be offered to, or purchased  
10    by, consumers as a cigarette described in paragraph (a) of this subdivi-  
11    sion. [However, a roll will not be considered to be a cigarette for  
12    purposes of paragraph (b) of this subdivision if it is not treated as a  
13    cigarette for federal excise tax purposes under the applicable federal  
14    statute in effect on April first, two thousand eight.]

15    S 2. Subdivision 2 of section 470 of the tax law, as amended by  
16    section 1 of part MM-1 of chapter 57 of the laws of 2008, is amended to  
17    read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD11691-02-9

1 2. "Tobacco products." Any cigar, INCLUDING A LITTLE CIGAR, or tobac-  
2 co, other than cigarettes, intended for consumption by smoking, chewing,  
3 or as snuff.

4 S 3. Section 470 of the tax law is amended by adding a new subdivision  
5 2-b to read as follows:

6 2-B. "LITTLE CIGAR." ANY ROLL FOR SMOKING MADE WHOLLY OR IN PART OF  
7 TOBACCO IF SUCH PRODUCT IS WRAPPED IN ANY SUBSTANCE CONTAINING TOBACCO,  
8 OTHER THAN NATURAL LEAF TOBACCO WRAPPER, AND WEIGHING NOT MORE THAN  
9 THREE POUNDS PER THOUSAND, PROVIDED THAT IF A PRODUCT ALSO MEETS THE  
10 DEFINITION OF "CIGARETTE" UNDER THIS ARTICLE, IT SHALL BE TREATED AS A  
11 CIGARETTE AND NOT AS A LITTLE CIGAR.

12 S 4. Subdivision 19 of section 470 of the tax law, as added by section  
13 1 of part MM-1 of chapter 57 of the laws of 2008, is amended to read as  
14 follows:

15 19. "Cigar." Any roll of tobacco wrapped in leaf tobacco or in any  
16 substance containing tobacco (other than any roll of tobacco that is a  
17 cigarette as defined in subdivision one of this section). [However, a  
18 roll will not be considered to be a cigar for purposes of this subdivi-  
19 sion if it is not treated as a cigar for federal excise tax purposes  
20 under the applicable federal statute in effect on April first, two thou-  
21 sand eight.] "CIGAR" SHALL INCLUDE, EXCEPT WHERE EXPRESSLY EXCLUDED, ANY  
22 LITTLE CIGAR.

23 S 5. Paragraph (a) of subdivision 1 of section 471-b of the tax law,  
24 as amended by section 1 of part II of chapter 57 of the laws of 2009, is  
25 amended to read as follows:

26 (a) Such tax on tobacco products other than snuff AND LITTLE CIGARS  
27 shall be at the rate of forty-six percent of the wholesale price, and is  
28 intended to be imposed only once upon the sale of any tobacco products  
29 other than snuff AND LITTLE CIGARS.

30 S 6. Subdivision 1 of section 471-b of the tax law is amended by adding  
31 a new paragraph (c) to read as follows:

32 (C) SUCH TAX ON LITTLE CIGARS SHALL BE AT THE SAME RATE IMPOSED ON  
33 CIGARETTES UNDER THIS ARTICLE, AS THIS ARTICLE MAY BE AMENDED FROM TIME  
34 TO TIME, AND IS INTENDED TO BE IMPOSED ONLY ONCE UPON THE SALE OF ANY  
35 LITTLE CIGARS.

36 S 7. Paragraph (i) of subdivision (a) of section 471-c of the tax law,  
37 as amended by section 2 of part II of chapter 57 of the laws of 2009, is  
38 amended to read as follows:

39 (i) Such tax on tobacco products other than snuff AND LITTLE CIGARS  
40 shall be at the rate of forty-six percent of the wholesale price.

41 S 8. Paragraph (b) of subdivision 1 of section 1 of chapter 235 of the  
42 laws of 1952, re-entitled by chapter 369 of the laws of 1959 "An act to  
43 enable any city of the state having a population of one million or more  
44 to adopt, and amend local laws, imposing certain specified types of  
45 taxes on cigarettes, cigars and smoking tobacco which the legislature  
46 has or would have power and authority to impose, to provide for the  
47 review of such taxes, and to limit the application of such local laws,"  
48 as amended by chapter 252 of the laws of 1963, is amended and a new  
49 paragraph (d) is added to read as follows:

50 (b) The rate of such tax on cigars OTHER THAN LITTLE CIGARS shall not  
51 exceed one cent on each SUCH cigar sold at a price of not less than  
52 seven cents and not more than fifteen cents; two cents on each SUCH  
53 cigar sold at a price of not less than sixteen cents and not more than  
54 twenty-nine cents; and three cents on each SUCH cigar sold at a price of  
55 thirty cents or more. Where more than one cigar OTHER THAN A LITTLE  
56 CIGAR is sold, whether or not in a package, box or container, such tax

1 shall be applied to each SUCH cigar on the basis of the price applicable  
2 to each SUCH cigar. The tax ON CIGARS OTHER THAN LITTLE CIGARS shall not  
3 be applicable to SUCH cigars sold at a price less than seven cents a  
4 cigar.

5 (D) THE RATE OF SUCH TAX ON LITTLE CIGARS SHALL NOT EXCEED THE RATE OF  
6 TAX IMPOSED ON CIGARETTES UNDER PARAGRAPH (A) OF THIS SUBDIVISION, AS  
7 SUCH PARAGRAPH MAY BE AMENDED OR IN EFFECT FROM TIME TO TIME OR UNDER  
8 ANY SUCCESSOR PROVISION IMPOSING SUCH A TAX ON CIGARETTES.

9 S 9. Subdivision 2 of section 1 of chapter 235 of the laws of 1952,  
10 re-entitled by chapter 369 of the laws of 1959 "An act to enable any  
11 city of the state having a population of one million or more to adopt,  
12 and amend local laws, imposing certain specified types of taxes on ciga-  
13 rettes, cigars and smoking tobacco which the legislature has or would  
14 have power and authority to impose, to provide for the review of such  
15 taxes, and to limit the application of such local laws", as amended by  
16 section 5 of part MM-1 of chapter 57 of the laws of 2008, is amended to  
17 read as follows:

18 (2) As used herein, the term "cigarette" shall mean and include (a)  
19 any roll for smoking made wholly or in part of tobacco or of any other  
20 substance wrapped in paper or in any other substance not containing  
21 tobacco, and (b) any roll for smoking made wholly or in part of tobacco  
22 wrapped in any substance containing tobacco that, because of its appear-  
23 ance, the type of tobacco used in the filler, or its packaging and  
24 labeling, is likely to be offered to, or purchased by, consumers as a  
25 cigarette described in paragraph (a) of this subdivision. [However, a  
26 roll will not be considered to be a cigarette for purposes of paragraph  
27 (b) of this subdivision if it is not treated as a cigarette for federal  
28 excise tax purposes under the applicable federal statute in effect on  
29 April first, two thousand eight.] The term "cigar" does not include any  
30 cigarette as defined in this subdivision. AS USED HEREIN, THE TERM  
31 "LITTLE CIGAR" SHALL MEAN AND INCLUDE ANY ROLL FOR SMOKING MADE WHOLLY  
32 OR IN PART OF TOBACCO IF SUCH PRODUCT IS WRAPPED IN ANY SUBSTANCE  
33 CONTAINING TOBACCO, OTHER THAN NATURAL LEAF TOBACCO WRAPPER, AND WEIGHS  
34 NOT MORE THAN THREE POUNDS PER THOUSAND, PROVIDED THAT IF A PRODUCT ALSO  
35 MEETS THE DEFINITION OF "CIGARETTE" UNDER THIS SECTION, IT SHALL BE  
36 TREATED AS A CIGARETTE AND NOT AS A LITTLE CIGAR.

37 S 10. This act shall take effect July 1, 2009.